

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

vs.

**CASE NO. 3:99-CR-239-04(JAF)
3:99-CR-369-01(JAF)**

RICHARD LOPEZ-RODRIGUEZ

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**MOTION FOR A SHOW CAUSE HEARING
AND REQUEST FOR A SUMMONS**

**TO THE HONORABLE JOSE A. FUSTE
CHIEF U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO**

COMES NOW, Luz Enid Aponte Ortiz, U.S. Probation Officer of this Honorable Court, presenting an official report upon the conduct of Mr. Richard López-Rodríguez, who was sentenced on July 31, 2000, to an imprisonment term of sixty (60) months as to each count of the indictment, to be served concurrently with each other. The imprisonment term is to be followed by three (3) years of supervision as to count one(1) of the superceding indictment and five(5) years as to count one of the information, to be served concurrently with each other. Among other special conditions of the supervision term, Mr. Richard López-Rodríguez, was ordered to submit to drug testing and if any samples detect substance abuse to participate in a treatment program, to provide financial information upon request and to cooperate in the collection of his DNA. A special monetary assessment for the amount of \$200.00 was also imposed. The offender was released on August 12, 2005, at which time his supervised release term commenced. On July 17, 2007, U.S. Probation Officer filed a motion requesting modification of conditions to add mental health treatment to the offender's conditions. On July 23, 2007, the Court granted the U.S. Probation Officer's request.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Since his last release from custody, the releasee has violated the following conditions of his supervision term:

1. SPECIAL CONDITION- “THE DEFENDANT SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE AND SUBMIT TO A DRUG TEST WITHIN FIFTEEN (15) DAYS OF RELEASE, AT LEAST TWO(2) PERIODIC TEST THEREAFTER, AND WHENEVER REQUESTED BY THE U.S. PROBATION OFFICER. IF ANY SUCH SAMPLES DETECT SUBSTANCE ABUSE, THAT THE DEFENDANT PARTICIPATE IN A SUBSTANCE ABUSE TREATMENT PROGRAM ARRANGED AND APPROVED BY THE U.S. PROBATION OFFICE UNTIL DULY DISCHARGED BY AUTHORIZED PROGRAM PERSONNEL WITH THE APPROVAL OF THE U. S. PROBATION OFFICER”.

On June 27, 2007, during an office contact, the offender provided a urine sample which tested positive for cocaine. On February 26, 2008, the offender provided a diluted sample and on June 16, 2008, he stalled (failed to report to provide a urine sample). Subsequently, on June 26, 2008, the offender provided a urine sample which tested positive for cocaine .

2. STANDARD CONDITION NO.2- “THE DEFENDANT SHALL REPORT TO THE PROBATION OFFICER AND SHALL SUBMIT A TRUTHFUL AND COMPLETE WRITTEN REPORT WITHIN THE FIRST FIVE DAYS OF EACH MONTH”.

On April 2, and June 4, 2008, the offender was instructed to report to the U.S. Probation Office but he failed to do so. He also failed to submit the Monthly Supervision Reports for the months of February, August, September and November 2007, and May and June 2008.

3. STANDARD CONDITION NO.4- “ THE DEFENDANT SHALL SUPPORT HIS DEPENDANTS AND MEET OTHER FAMILY RESPONSIBILITIES”.

On June 19, 2008 , during a home contact, Ana M. Rodríguez-Rodríguez, the offender's mother was interviewed and when inquired about the offender's compliance with the support of his older son, (12 year-old), she reported that the offender never has provided child support for this son. She has been the one supporting him until this date. Ms. Rodríguez, also reported that not even after his release from prison the offender helped her with the support of his son.

4. STANDARD CONDITION NO.5- “THE DEFENDANT SHALL WORK REGULARLY AT A LAWFUL OCCUPATION UNLESS EXCUSED BY THE PROBATION OFFICER FOR SCHOOLING, TRAINING, OR OTHER ACCEPTABLE REASONS”.

Since December 2007, the offender has not been able to provide evidence of a stable employment. He reported doing odd jobs in which he stated that his employer is unaware of his legal status and therefore, preventing U.S. Probation Officer from confirming employment status.

5. STANDARD CONDITION NO.6- “THE DEFENDANT SHALL NOTIFY THE PROBATION OFFICER TEN DAYS PRIOR TO ANY CHANGE IN RESIDENCE OR EMPLOYMENT”.

On February 25, 2008, the offender's spouse contacted the U.S. Probation Officer and notified that the offender was not longer residing with her, the offender has failed to report change of residence. On June 19, 2008, during a home contact, U.S. Probation Officer interviewed the offender's mother and when inquired about the offender's whereabouts, she reported not seeing him since the last Saturday, June 14, 2008, although she believes he was in Juncos visiting his daughters. However, the offender failed to contact U.S. Probation Officer to notify of his whereabouts as previously instructed.

WHEREFORE, I declare under penalty and perjury that the foregoing is true and correct. In view of the aforementioned, unless ruled otherwise, it is respectfully requested that a summons be issued so that he may be brought before this Honorable Court to show cause why his supervision term should not be revoked. Thereupon, he to be dealt with pursuant to law.

In San Juan, Puerto Rico, this 10th day of July 2008.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

s/Luz E. Aponte
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CERTIFICATE OF SERVICE

I HEREBY certify that on July 10, 2008, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

José A. Ruíz-Santiago, Assistant U.S. Attorney and Rafael Anglada-López, Defense Counsel.

In San Juan, Puerto Rico, this 10th day of July 2008.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

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